<div align="center">**REMARKS/ARGUMENTS**</div>

Claims 1-12, 14-17, 21-25, and 27-30 are pending in the present application. Claims 13, 18-20, and 26 are canceled. Claims 18 and 19 are canceled by this amendment so that only five independent claims and 25 total claims remain in the present application. Claims 1, 4, 5, 7, 10, 12, 14, 15, 16, 21, 22, 24, 25, 27, and 29-30 are amended. Claims 4, 7, 12, 14, 16, 22, 25, 27, 29, and 30 are amended to correct errors and to provide antecedent basis. Support for the amendments to claims 1, 5, 10, 14, 15, 21, and 24 is located at least on page 12, line 20 through page 13, line 18; and in Figures 7A, 7B, and Figure 8. Reconsideration of the claims is respectfully requested.

I.   Objection to Claims

The Examiner objects to claim 14 because of informalities. Claim 14 is recited as being dependent on claim 13, which has been canceled. In response, claims 14 has been amended to depend from claim 10 and to overcome this objection.

II.   35 U.S.C. § 103, Obviousness

The Examiner rejects claims 1, 2, 4-7, 9, 10-12, 14, 15, 16, 18-19, 21, 22, 24-25, 27, and 29-30 under 35 U.S.C. § 103(a) as being unpatentable over *Mikurak* (US 6,671,818 B1) in view of *Fraenkel et al.* (US 2003/0065986 A1), hereinafter referred to as *Fraenkel*, in view of *Brown et al.* (US 2003/0055677 A1), hereinafter referred to as *Brown*. This rejection is respectfully traversed.

With respect to independent claims 1, 15, and 21, the Office Action states:

Regarding Claims 1, 15, 21, 29
Mikurak discloses a method and system for a utility computing environment comprising:
- setting service level thresholds for the utility computing environment, wherein the service level thresholds are based on a service level agreement with a customer (at least column 44, lines 62-67 and column 45, lines 1-8: thresholds set with SLA)
- identifying at least one discrepancy between the promised service level and the current service level (at least column 44, lines 62-67 and column 45, lines l-8: performance goals tracked, notifications generated when not met)
- providing a rebate to the customer for the at least one discrepancy (at least column 47, lines 9-19: rebates given for SLA breaches)

Mikurak does not disclose:
- displaying a view of a current service level for the customer
- presenting a view of a promised service level based on service level agreement parameters
- wherein the rebate is generated for guaranteed uniformity, wherein guaranteed uniformity is the process of crediting the customer when successfully completing a service request using less time than specified in the service level agreement

Fraenkel teaches that it is known to include presenting and displaying a view of service level (at least figure 14) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method and system, as taught by Mikurak, with the presenting and displaying a service level, as taught by Fraenkel, since such a modification would have provided increased accuracy in monitoring resource performance and determine performance problems through a software system that monitors post-deployment operations of systems (at least paragraph [0011] of Fraenkel).

Brown teaches that it is known to include generating a rebate to credit a customer when completing a service request using less time and resources than specified in a service agreement (at least paragraph [0065]: utility service terms include rebate for unutilized capacity in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method and system, as taught by Mikurak, with the rebating for unutilized resources, as taught in Fraenkel, since such a modification would have provided increased accuracy in charging customers for utility usage (at least paragraph [0065] of Brown).

The examiner notes that though Brown does not explicitly disclose rebating for unused time, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The step of providing a rebate would be performed in the same manner regardless of what discrepancy is credited. In other words, whether less time or any other resource is used than is set forth in the claimed service level agreement, the rebate is still provided in the same manner, to ensure that a customer pays only for services rendered. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.23d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a rebate for an service level agreement discrepancy because the type of discrepancy does not functionally relate to the steps in the method claimed and merely rebating an unused resource different from that in the prior art would have been obvious. See Gulack cited above.

Office Action dated July 17, 2007, pages 3-6.

As amended, claim 1, which is representative of the other rejected independent claims 15 and 21 with regard to similarly recited subject matter, reads as follows:

1.   A method in a data processing system for a utility computing environment, the method comprising:
        setting service level thresholds for the utility computing environment, wherein the service level thresholds are based on a service level agreement with a customer;
        displaying a view of a current service level for the customer;
        presenting a view of a promised service level based on service level agreement parameters;
        identifying a plurality of discrepancies between the promised service level and the current service level, wherein one of the plurality of discrepancies occurs in response to successfully completing a service request using less time than specified in the service

level agreement, and wherein another of the plurality of discrepancies occurs in response to breeching to the service level agreement;

  <u>generating a first rebate in response to successfully completing the service</u> <u>request using less time than specified in the service level agreement based on a</u> <u>completion time and a promised completion time, wherein the completion time is an</u> <u>amount of time used to successfully complete the service request, wherein the promised</u> <u>completion time is an agreed upon amount of time to complete the service request</u> <u>specified in the service level agreement, and wherein the completion time is less than the</u> <u>promised completion time;</u>

  generating a second rebate in response to breeching the service level agreement; and

  providing the first rebate and the second rebate to the customer for the plurality of discrepancies, wherein the first rebate and the second rebate assure that the customer pays for service rendered.
(emphasis added)

With respect to independent claims 10 and 24, the Office Action states:

Regarding Claims 10, 18, 24, 30
Mikurak discloses:
  • presenting a promised service level based on a service level agreement (at least column 46, lines 1-9: customer reports generated of SLA parameters)
  • providing a rebate to a customer when at least one discrepancy between the current service level and the promised service level occurs (at least column 47, lines 9-19: rebates given for SLA breaches)
Mikurak does not disclose:
  • displaying at least one of an infrastructure view and an application view of a current service level for a customer, wherein the infrastructure view contains information technology hardware and software components, wherein the application view contains software applications residing on utility computing resources, and wherein the infrastructure view and the application view are linked
  • retrieving additional details of the at least one of the infrastructure view and the application view by clicking on a component of the at least one of the infrastructure view and the application view
  • switching between the infrastructure view and the application view
  • wherein the infrastructure view and the application view show a relationship between the current service level and the promised service level and wherein the relationship indicates a progress level of a service request with arespect to a service level agreement with a customer

  The examiner notes that though Brown does not explicitly disclose rebating for unused time, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The step of providing a rebate would be performed in the same manner regardless of what discrepancy is credited. In other words, whether less time or any other resource is used than is set forth in the claimed service level agreement, the rebate is still provided in the same manner, to ensure that a customer pays only for services rendered. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.23d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a rebate for an service level agreement discrepancy because the type of discrepancy does not functionally relate to the steps in the method claimed and merely rebating an unused resource different from that in the prior art would have been obvious. See Gulack cited above.

Fraenkel teaches that it is known to include an infrastructure view containing information technology hardware and software components (at least figure 29: server and memory performance and software performance displayed) and an application view containing software applications (at least figure 22: software (transaction performance displayed), linking the views (at least figures 22, 29: pages linked by menu on left side), retrieving additional details with a mouse click (at least figures 22, 29: date menus at top can be clicked to retrieve additional details), and switching between views (at least figures 22, 29: views switched between via menu on left side) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system and method, as taught by Mikurak, with the infrastructure view and application view, and their functionalities, as taught by Fraenkel, since such a modification would have provided increased accuracy in monitoring resource performance and determine performance problems through a software system that monitors post-deployment operations of systems (at least paragraph [0011] of Fraenkel).

Brown teaches that it is known to include presented a view of a relationship between a promised service level and a current service level (at least figure 6A: allocated utility capacity and actual utility usage) and generating a rebate to credit a customer when completing a service request using less time and resources than specified in a service agreement (at least paragraph [0065]: utility service terms include rebate for unutilized capacity) in a similar environment. It would have been obvious to one of ordinary skill in the art in the ime the inbentio was made to have modified the system and method, as taught by Mikurak, with the display of a relationship of service levels and rebates, as taught by Brown, since such a modification would have provided an improved utility management for customers through an interface that allows a user to identify activities that result in utility overuse (at least paragraph [0089] of Brown).

Office Action dated July 17, 2007, pages 9-12.

As amended, claim 10, which is representative of the other rejected independent claim 24 with regard to similarly recited subject matter, reads as follows:

10.   A method in a data processing system for a utility computing environment, the method comprising:
    displaying at least one of an infrastructure view and an application view of a current service level for a customer, wherein the infrastructure view contains information technology hardware and software components, wherein the application view contains software applications residing on utility computing resources, and wherein the infrastructure view and the application view are linked;
    presenting a view of a promised service level based on service level agreement parameters, wherein the infrastructure view and the application view show a relationship between the current service level and the promised service level, and wherein the relationship indicates a progress level of a service request with respect to a service level agreement with the customer;

generating a first rebate in response to successfully completing a service request using less time than specified in the service level agreement based on a completion time and a promised completion time, wherein the completion time is an amount of time used to successfully complete the service request, wherein the promised completion time is an agreed upon amount of time to complete the service request specified in the service level agreement, and wherein the completion time is less than the promised completion time;

generating a second rebate in response to breaching the service level agreement;

providing the first rebate and the second rebate to a customer when a plurality of discrepancies between the current service level and the promised service level occur, wherein the first rebate and the second rebate assure that the customer pays for service rendered, wherein one of the plurality of discrepancies occurs in response to successfully completing the service request using less time than specified in the service level agreement, and wherein another of the plurality of discrepancies occurs in response to breeching to the service level agreement;

retrieving additional details of the at least one of the infrastructure view and the application view by clicking on a component of the at least one of the infrastructure view and the application view, wherein the additional details include the rebate and an impact for breaching the service level agreement; and

switching between the infrastructure view and the application view.
(emphasis added)

The Examiner bears the burden of establishing a *prima facie* case of obviousness based on the prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). For an invention to be prima facie obvious, the prior art must teach or suggest all claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Mikurak, Fraenkel and *Brown*, taken individually or in combination, do not teach or suggest "generating a first rebate in response to successfully completing a service request using less time than specified in the service level agreement based on a completion time and a promised completion time, wherein the completion time is an amount of time used to successfully complete the service request, wherein the promised completion time is an agreed upon amount of time to complete the service request specified in the service level agreement, and wherein the completion time is less than the promised completion time," as recited in claims 1, 10, 15, 21, and 24.

Mikurak is directed to a system, method and article of manufacture for managing life cycle network assets in a network based supply chain. The supply chain network is monitored, and events from network assets are received, filtered, and correlated, whereby problems with network assets are further isolated. The filtered and isolated events are then translated into a standard object format for facilitating the determination of the life cycle of problem network assets, wherein the events are translated by a comprehensive library of all possible message types provided by the custom software interfaces. In accordance with an embodiment of *Mikurak's* invention, the network assets include both packet-switched and circuit-switched network assets, and the events are received by custom software interfaces, which communicate directly with the network assets. See *Mikurak*, Abstract. *Mikurak* does not teach or

suggest "generating a first rebate in response to successfully completing a service request using less time than specified in the service level agreement based on a completion time and a promised completion time, wherein the completion time is an amount of time used to successfully complete the service request, wherein the promised completion time is an agreed upon amount of time to complete the service request specified in the service level agreement, and wherein the completion time is less than the promised completion time," as recited in claims 1, 10, 15, 21, and 24. *Mikurak* does not teach or suggest providing the first rebate and the second rebate to a customer when a plurality of discrepancies between the current service level and the promised service level occur so that the first rebate and the second rebate assure that the customer pays for service rendered. *Mikurak* does not mention the concept of generating a rebate based on a completion time being less than a promised completion time, which is an agreed upon amount of time to complete a service request specified in the service level agreement. In addition, *Mikurak* does not mention the concept of providing both the first rebate, as describe above, and a second rebate for breeching the service level agreement to assure that the customer pays for service rendered.

With respect to the rejection of claims 1, 10, 15, 21, and 24, the Office Action refers to the following portions of *Mikurak*:

> The process provides sufficient and relevant information to verify compliance/non-compliance to Service Level Agreements (SLA). The process provides sufficient usage information for rating and billing.
> This process ensures that the Network Performance goals are tracked, and that notification is provided when they are not met (threshold exceeded, performance degradation). This also includes thresholds and specific requirements for billing. This includes information on capacity, utilization, traffic and usage collection. In some cases, changes in traffic conditions may trigger changes to the network for the purpose of traffic control. Reduced levels of network capacity can result in requests to Network Planning for more resources.

Mikurak, column 44, line 62, through column 45, line 8.

> First, in step 1800, a hybrid network event is received which may include customer inquiries, required reports, completion notification, quality of service terms, service level agreement terms, service problem data, quality data, network performance data, and/or network configuration data. Next, in step 1802, the system determines customer reports to be generated and, in step 1804, generates the customer reports accordingly based on the event received.

Mikurak, column 46, lines 1-9.

> The Problem Handling Process 1502 and the Network Data Management 1300 feed information to the Rating and Discounting Process 1306, as shown in FIG. 23. This process applies the correct rating rules to usage data on a customer-by-customer basis, as required. It also applies any discounts agreed to as part of the Ordering Process, for promotional discounts and charges, and for outages. In addition, the Rating and Discounting Process 1306 applies any rebates due because service level agreements were

not met. The aim is to correctly rate usage and to correctly apply discounts, promotions
and credits.

Mikurak, column 47, lines 9-19.

  Mikurak discloses verifying compliance and non-compliance to a service level agreement and
applying a rebate for not meeting a service level agreement. These portions of *Mikurak* do not teach or
suggest "generating a first rebate in response to successfully completing a service request using less time
than specified in the service level agreement based on a completion time and a promised completion time,
wherein the completion time is an amount of time used to successfully complete the service request,
wherein the promised completion time is an agreed upon amount of time to complete the service request
specified in the service level agreement, and wherein the completion time is less than the promised
completion time," as recited in claims 1, 10, 15, 21, and 24.

  Fraenkel is directed to a system for monitoring and analyzing the post-deployment performance
of a web-based or other transactional server. The monitoring system includes agent components that
monitor and report various performance parameters associated with the transactional server, such as
response times seen by end users, server and network times, and various server resource utilization
parameters. A web-based reports server displays the data collected by the agents through a series of
charts and graphs that indicate whether correlations exist between the response times and lower level
parameters. A root cause analysis system applies statistical algorithms to the collected data to detect
performance degradations in specific parameters, and uses predefined parameter dependency rules to
correlate high level performance problems to likely sources or causes of such problems. See *Fraenkel,*
Abstract. *Fraenkel* does not teach or suggest "generating a first rebate in response to successfully
completing a service request using less time than specified in the service level agreement based on a
completion time and a promised completion time, wherein the completion time is an amount of time used
to successfully complete the service request, wherein the promised completion time is an agreed upon
amount of time to complete the service request specified in the service level agreement, and wherein the
completion time is less than the promised completion time," as recited in claims 1, 10, 15, 21, and 24. In
addition, *Fraenkel* does not even mention rebates.

  With respect to the rejection of claims 1, 10, 15, 18, 21, and 24, the Office Action refers to Figure
14, Figure 22, Figure 29, and the following paragraph of *Fraenkel*:

   [0011] Another significant problem with prior tools and services is that they generally do
   not provide a mechanism for identifying the source of performance problem. For
   instance, a web site monitoring service may determine that users are currently
   experiencing unusually long response times, but typically will not be capable of
   determining the source of the problem. Thus, a system administrator may be required to
   review significant quantities of measurement data, and/or conduct additional testing, to
   pinpoint the source or cause of the detected problem.

Fraenkel, paragraph [0011].

This paragraph of *Fraenkel* only states that it is difficult to identify the source or cause of a detected problem and that generally prior tools do not provide a mechanism for identify the source of performance problems. *Fraenkel* does not mention service level agreements, rebates, or presenting a view of a promised service level. Figures 14, 22, and 29 of *Fraenkel* only disclose displaying views of transaction performance. *Fraenkel* does not teach or suggest "generating a first rebate in response to successfully completing a service request using less time than specified in the service level agreement based on a completion time and a promised completion time, wherein the completion time is an amount of time used to successfully complete the service request, wherein the promised completion time is an agreed upon amount of time to complete the service request specified in the service level agreement, and wherein the completion time is less than the promised completion time," as recited in claims 1, 10, 15, 21, and 24.

Brown is directed to an Internet-based utility management system that presents estimated utility prices, usage terms, and a predicted load profile to a customer. The estimated utility prices include predicted prices of a utility during certain future periods of time. The usage terms include a utility usage threshold for each certain future period of time below which the estimated price applies. The predicted load profile includes predicted utility usage of the customer for each certain future period of time and presented such that any variation between the usage terms and the predicted load profile is readily apparent. See *Brown*, Abstract. *Brown* does not teach or suggest "generating a first rebate in response to successfully completing a service request using less time than specified in the service level agreement based on a completion time and a promised completion time, wherein the completion time is an amount of time used to successfully complete the service request, wherein the promised completion time is an agreed upon amount of time to complete the service request specified in the service level agreement, and wherein the completion time is less than the promised completion time," as recited in claims 1, 10, 15, 21, and 24. In addition, *Brown* does not even mention service level agreements or the concept of providing both the first rebate, as describe above, and a second rebate for breeching the service level agreement to assure that the customer pays for service rendered.

With respect to the rejection of claims 1, 10, 15, 18, 21, and 24, the Office Action refers to Figure 6A and the following portions of *Brown*:

> [0065] Reaching the agreement 440 as to estimated utility prices 405 and usage terms 410 also may include negotiating a rebate for unutilized capacity. The utility supplier and/or the host may implement a rebate program. As discussed above, a utility supplier (e.g., power company) may charge a customer for reserving capacity based on the customer's past peak demand for certain time interval (e.g., past twelve months). In this type of pricing arrangement, the utility supplier establishes a baseline capacity (e.g., 1800 kWh),

charges the customer for the right to use the capacity even if the customer does not use the total amount, and charges the customer a penalty if the baseline capacity is exceeded. In a deregulated market, however, it may not be practical for a utility supplier to require that customers pay for unutilized capacity, particularly if the customers have access to real-time utility consumption data. Indeed, if customers are able to accurately monitor actual usage, competition may dictate that utility suppliers charge customers only for the amount of utility that is consumed.

Brown, paragraph [0065].

[0089] Referring to FIGS. 6A and 6B, a user interface (UI) 600a and/or a UI 600b may be presented by the host to customers and/or utility suppliers. By viewing the UIs 600a and 600b, a customer is able to review actual utility consumption and expenses and alter future utility consumption. A customer may identify activities resulting in utility overuse and plan to avoid such activities in the future. A customer having several facilities may examine consumption and expenses for all facilities or target a specific facility.

Brown, paragraph [0089].

These portions of *Brown* disclose that negotiating a rebate for unutilized capacity of a utility and charging the customer for the amount of utility that is consumed. *Brown* does not teach or suggest "generating a first rebate in response to successfully completing a service request using less time than specified in the service level agreement based on a completion time and a promised completion time, wherein the completion time is an amount of time used to successfully complete the service request, wherein the promised completion time is an agreed upon amount of time to complete the service request specified in the service level agreement, and wherein the completion time is less than the promised completion time," as recited in claims 1, 10, 15, 21, and 24.

Mikurak, Fraenkel and *Brown* fail to teach or suggest "generating a first rebate in response to successfully completing a service request using less time than specified in the service level agreement based on a completion time and a promised completion time, wherein the completion time is an amount of time used to successfully complete the service request, wherein the promised completion time is an agreed upon amount of time to complete the service request specified in the service level agreement, and wherein the completion time is less than the promised completion time," as recited in claims 1, 10, 15, 21, and 24. Therefore, the alleged combination of *Mikurak, Fraenkel* and *Brown* does not teach or suggest these features.

In view of the above, Applicants respectfully request withdrawal of the rejection of independent claims 1, 10, 15, 18, 21, and 24 under 35 U.S.C. §103(a). Independent claim 18 is canceled. Additionally, *Mikurak, Fraenkel* and *Brown*, taken individually or in combination, do not teach or suggest the features of dependent claims 2, 4-7, 9, 11-12, 14, 16, 22, and 25 at least by virtue of their dependency on independent claims 1, 10, 15, 21, and 24, respectively. Dependent claims 13, 19-20, and 26 are

canceled. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 2, 4-7, 9, 11-14, 16, 19-20, 22, 25, 27, and 29-30 under 35 U.S.C. §103(a).

III.   35 U.S.C. § 103, Alleged Obviousness Based on _Mikurak, Fraenkel, Brown,_ and _Steele_

   The Office Action rejects claims 3, 8, 17, and 23 under 35 U.S.C. §103(a) as being unpatentable over _Mikurak_ in view of _Fraenkel_ and _Brown_, and further in view of _Steele et al._ (US 2004/0174823 A1), hereinafter referred to as _Steele_. This rejection is respectfully traversed.

   Since claims 3, 8, 17, and 23 depend from independent claims 1, 15, and 21, respectively, the same distinctions between _Mikurak, Fraenkel, Brown_, and the invention recited in claims 1, 15, and 21 apply to dependent claims 3, 8, 17, and 23. In addition, _Steele_ does not provide for the deficiencies of _Mikurak, Fraenkel,_ and _Brown_ with regard to independent claims 1, 15, and 21. _Steele_ is directed to a method and apparatus for designating and implementing support level agreements. _Steele_ is cited for disclosing that a user enters support level agreement parameters in a window and that a support level agreement window can be customized. _Steele_ does not teach or suggest "generating a first rebate in response to successfully completing a service request using less time than specified in the service level agreement based on a completion time and a promised completion time, wherein the completion time is an amount of time used to successfully complete the service request, wherein the promised completion time is an agreed upon amount of time to complete the service request specified in the service level agreement, and wherein the completion time is less than the promised completion time," as recited in claims 1, 15, and 21. Thus, any alleged combination of _Mikurak, Fraenkel,_ and _Brown_ with _Steele_ still would not result in the invention recited in claims 1, 15, and 21 from which claims 3, 8, 17, and 23 depend. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 3, 8, 17, and 23 under 35 U.S.C. §103(a).

IV.   35 U.S.C. § 103, Alleged Obviousness Based on _Mikurak, Fraenkel, Brown,_ and _Vukovljak_

   The Office Action rejects claim 28 under 35 U.S.C. §103(a) as being unpatentable over _Mikurak_ in view of _Fraenkel_ and _Brown_, and further in view of _Vukovljak et al._ (US 2005/0286685), hereinafter referred to as _Vukovljak_. This rejection is respectfully traversed.

   Since claim 28 depends from independent claim 1, through claim 27, the same distinctions between _Mikurak, Fraenkel, Brown_, and the invention recited in claim 1 applies to dependent claim 28. In addition, _Vukovljak_ does not provide for the deficiencies of _Mikurak, Fraenkel,_ and _Brown_ with regard to independent claim 1. _Vukovljak_ is directed to a monitoring station system and method for monitoring multiple dial-up points in a communication network. Test data regarding availability and response time of the dial-up point can be obtained. _Vukovljak_ is cited for stating that near real-time reports include

simple "traffic light" type indicators and a visual data analysis tool allowing examination of trend data. *Vukovljak* does not teach or suggest "generating a first rebate in response to successfully completing a service request using less time than specified in the service level agreement based on a completion time and a promised completion time, wherein the completion time is an amount of time used to successfully complete the service request, wherein the promised completion time is an agreed upon amount of time to complete the service request specified in the service level agreement, and wherein the completion time is less than the promised completion time," as recited in claim 1. Thus, any alleged combination of *Mikurak, Fraenkel*, and *Brown* with *Vukovljak* still would not result in the invention recited in claim 1 from which claim 28 depends. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 28 under 35 U.S.C. §103(a).

V.   Conclusion

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: October 17, 2007

Respectfully submitted,

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